

Denice McCarthy Agency Contact Person

STATE OF UTAH CONTRACT

Transcore, ITS, LLC Name 488 East 6400 South Suite 375 Address	LEGAL STATUS CONTRACTOR [] Sole Proprietor
Murray UT 84107 City State Zip	[] Non-Profit Corporation[X] For-Profit Limited Liability Company[] Partnership[] Government Agency
Contact Person John Grant Phone (801) 293 Federal Tax ID# 94-3198006 Vendor # 27493	
GENERAL PURPOSE OF CONTRACT: The general	al purpose of this contract is to provide:
continued statewide expansion and oversight of the Condesign, develop, and integrate enhancements and new fe	support tasks that will be used with partner agencies, with the amuterLink ITS program. Contract will provide programmers to atures within our TransSuite® software, which is currently the em.
PROCUREMENT: This contract is entered into as a re	sult of the procurement process on SS06170, FY06.
CONTRACT PERIOD: Effective date 11 April 2006 T extended in accordance with the terms and conditions of	ermination date 31 March 2009 unless terminated early or f this contract. (2) one year renewal options.
	The CONTRACTOR will be paid per the prices as detail in
ATTACHMENT B: Scope of Work / Hourly Rates ATTACHMENT C: Special Terms and Conditions	
Any conflicts between Attachment A and other Attac	hments will be resolved in favor of Attachment A.
a. All other governmental laws, regulations, or actions a	TRACT BY REFERENCE BUT NOT ATTACHED: oplicable to the goods and/or services authorized by this contract. d CONTRACTOR'S response to Bid #GL6019 dated 11/02/05.
N WITNESS WHEREOF, the parties sign and cause to	his contract to be executed.
CONTRACTOR Warf 3/12/04 Contractor's signature Date Michael R. Mauritz, Vice Presiden Type or Print Name and Title	Kelvin G Thacker, Procurement Services Manager Date MAY 3 1 200 Director, Division for Purchasing Date PROCESSED BY DIVISION OF FINANCE Date Director, Division of Finance Date
	To assist the Department in Software development and scontinued statewide expansion and oversight of the Comdesign, develop, and integrate enhancements and new febase application used in the UDOT CommuterLink system of the Contract is entered into as a reconstruct of the Edward Integrate of the UDOT CommuterLink system of PROCUREMENT: This contract is entered into as a reconstruct of the Edward Integrated in accordance with the terms and conditions of extended in accordance with the terms and conditions of Contract. The Edward Integrated Integr

(801) 965-4073 Fax Number

dmccarthy@utah.gov

Email Address

(801) 965-4761

Telephone Number

ATTACHMENT A: STATE OF UTAH STANDARD TERMS AND CONDITIONS

- 1. **AUTHORITY:** Provisions of this contract are pursuant to the authority set forth in 63-56, <u>Utah Code Annotated</u>, 1953, as amended, Utah State Procurement Rules (<u>Utah Administrative Code</u> Section R33), and related statutes which permit the State to purchase certain specified services, and other approved purchases for the State.
- 2. CONTRACT JURISDICTION, CHOICE OF LAW, AND VENUE: The provisions of this contract shall be governed by the laws of the State of Utah. The parties will submit to the jurisdiction of the courts of the State of Utah for any dispute arising out of this Contract or the breach thereof. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
- 3. LAWS AND REGULATIONS: The Contractor and any and all supplies, services, equipment, and construction furnished under this contract will comply fully with all applicable Federal and State laws and regulations.
- 4. RECORDS ADMINISTRATION: The Contractor shall maintain, or supervise the maintenance of all records necessary to properly account for the payments made to the Contractor for costs authorized by this contract. These records shall be retained by the Contractor for at least four years after the contract terminates, or until all audits initiated within the four years, have been completed, whichever is later. The Contractor agrees to allow State and Federal auditors, and State Agency Staff, access to all the records to this contract, for audit and inspection, and monitoring of services. Such access will be during normal business hours, or by appointment.
- 5. **CONFLICT OF INTEREST:** Contractor represents that none of its officers or employees are officers or employees of the State of Utah, unless disclosure has been made in accordance with 67-16-8, <u>Utah Code Annotated</u>, 1953, as amended.
- 6. CONTRACTOR, AN INDEPENDENT CONTRACTOR: The Contractor shall be an independent contractor, and as such, shall have no authorization, express or implied, to bind the State to any agreements, settlements, liability, or understanding whatsoever, and agrees not to perform any acts as agent for the State, except as herein expressly set forth. Compensation stated herein shall be the total amount payable to the Contractor by the State. The Contractor shall be responsible for the payment of all income tax and social security amounts due as a result of payments received from the State for these contract services. Persons employed by the State and acting under the direction of the State shall not be deemed to be employees or agents of the Contractor.
- 7. **INDEMNITY CLAUSE:** The Contractor agrees to indemnify, save harmless, and release the State of Utah, and all its officers, agents, volunteers, and employees from and against any and all loss, damages, injury, liability, suits, and proceedings arising out of the performance of this contract which are caused by the negligence of the Contractor's officers, agents, volunteers, or employees, but not for claims arising from the State's sole negligence.
- 8. EMPOYMENT PRACTICES CLAUSE: The Contractor agrees to abide by the provisions of Title VI and VII of the Civil Rights Act of 1964 (42USC 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age; and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. Also, the Contractor agrees to abide by Utah's Executive Order, dated March 17, 1993, which prohibits sexual harassment in the work place.
- SEPARABILITY CLAUSE: A declaration by any court, or any other binding legal source, that any provision of this contract is illegal
 and void shall not affect the legality and enforceability of any other provision of this contract, unless the provisions are mutually
 dependent.
- 10. **RENEGOTIATION OR MODIFICATIONS:** This contract may be amended, modified, or supplemented only by written amendment to the contract, executed by the same persons or by persons holding the same position as persons who signed the original agreement on behalf of the parties hereto, and attached to the original signed copy of the contract. Automatic renewals will not apply to this contract.
- 11. **DEBARMENT:** The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract), by any governmental department or agency. If the Contractor cannot certify this statement, attach a written explanation for review by the State. The Contractor must notify the State Director of Purchasing within 30 days if debarred by any governmental entity during the Contract period.
- 12. **TERMINATION:** Unless otherwise stated in the Special Terms and Conditions, this contract may be terminated, with cause by either party, in advance of the specified termination date, upon written notice being given by the other party. The party in violation will be given thirty (30) working days after notification to correct and cease the violations, after which the contract may be terminated for cause. This contract may be terminated without cause, in advance of the specified expiration date, by either party, upon 90 days prior written notice being given the other party. On termination of this contract, all accounts and payments will be processed according to the financial arrangements set forth herein for approved services rendered to date of termination.
- 13. NONAPPROPRIATION OF FUNDS: The Contractor acknowledges that the State cannot contract for the payment of funds not yet appropriated by the Utah State Legislature. If funding to the State is reduced due to an order by the Legislature or the Governor, or is required by State law, or if federal funding (when applicable) is not provided, the State may terminate this contract or proportionately reduce the services and purchase obligations and the amount due from the State upon 30 days written notice. In the case that funds are not appropriated or are reduced, the State will reimburse Contractor for products delivered or services performed through the date of cancellation or reduction, and the State will not be liable for any future commitments, penalties, or liquidated damages.
- 14. SALES TAX EXEMPTION: The State of Utah's sales and use tax exemption number is E33399. The tangible personal property or services being purchased are being paid from State funds and used in the exercise of that entity's essential functions. If the items being purchased are construction materials, they will be converted into real property by employees of this government entity, unless otherwise stated in the contract.
- 15. WARRANTY: The Contractor agrees to warrant and assume responsibility for all products (including hardware, firmware, and/or software products) that it licenses, contracts, or sells to the State of Utah under this contract for a period of one year, unless otherwise

specified and mutually agreed upon elsewhere in this contract. The Contractor (seller) acknowledges that all warranties granted to the buyer by the Uniform Commercial Code of the State of Utah apply to this contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this contract unless otherwise specified and mutually agreed upon elsewhere in this contract. In general, the Contractor warrants that: (1) the product will do what the salesperson said it would do, (2) the product will live up to all specific claims that the manufacturer makes in their advertisements, (3) the product will be suitable for the ordinary purposes for which such product is used, (4) the product will be suitable for any special purposes that the State has relied on the Contractor's skill or judgment to consider when it advised the State about the product, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which the State has not been warned. Remedies available to the State include the following: The Contractor will repair or replace (at no charge to the State) the product whose nonconformance is discovered and made known to the Contractor in writing. If the repaired and/or replaced product proves to be inadequate, or fails of its essential purpose, the Contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the State of Utah may otherwise have under this contract.

- 16. PUBLIC INFORMATION: Except as identified in writing and expressly approved by the State Division of Purchasing, Contractor agrees that the contract and related Sales Orders and Invoices will be public documents, and may be available for distribution. Contractor gives the State express permission to make copies of the contract, the response to the solicitation, and related Sales Orders and Invoices in accordance with the State of Utah Government Records Access and Management Act. The permission to make copies as noted will take precedence over any statements of confidentiality, proprietary information, copyright information, or similar notation.
- 17. **DELIVERY:** Unless otherwise specified in this contract, all deliveries will be F.O.B. destination with all transportation and handling charges paid by the Contractor. Responsibility and liability for loss or damage will remain with Contractor until final inspection and acceptance when responsibility will pass to the State except as to latent defects, fraud and Contractor's warranty obligations.
- 18. ORDERING AND INVOICING: All orders will be shipped promptly in accordance with the delivery schedule. The Contractor will promptly submit invoices (within 30 days of shipment or delivery of services) to the State. The State contract number and/or the agency purchase order number shall be listed on all invoices, freight tickets, and correspondence relating to the contract order. The prices paid by the State will be those prices listed in the contract. The State has the right to adjust or return any invoice reflecting incorrect pricing.
- 19. PAYMENT: Payments are normally made within 30 days following the date the order is delivered or the date a correct invoice is received, whichever is later. All payments to the Contractor will be remitted by mail unless paid by the State of Utah's Purchasing Card (major credit card).
- 20. PATENTS, COPYRIGHTS, ETC.: The Contractor will release, indemnify and hold the State, its officers, agents and employees harmless from liability, including the Contractor's use of any copyrighted or un-copyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in the performance of this contract.
- 21. **ASSIGNMENT/SUBCONTRACT:** Contractor will not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this contract, in whole or in part, without the prior written approval of the State.
- 22. **DEFAULT AND REMEDIES:** Any of the following events will constitute cause for the State to declare Contractor in default of the contract: 1. Nonperformance of contractual requirements; 2. A material breach of any term or condition of this contract. The State will issue a written notice of default providing a ten (10) day period in which Contractor will have an opportunity to cure. Time allowed for cure will not diminish or eliminate Contractor's liability for damages. If the default remains, after Contractor has been provided the opportunity to cure, the State may do one or more of the following: 1. Exercise any remedy provided by law; 2. Terminate this contract and any related contracts or portions thereof; 3. Impose liquidated damages, if liquidated damages are listed in the contract; 4. Suspend Contractor from receiving future solicitations.
- 23. **FORCE MAJEURE:** Neither party to this contract will be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. The State may terminate this contract after determining such delay or default will reasonably prevent successful performance of the contract.
- 24. **PROCUREMENT ETHICS**: The Contractor understands that a person who is interested in any way in the sale of any supplies, services, construction, or insurance to the State of Utah is violating the law if the person gives or offers to give any compensation, gratuity, contribution, loan or reward, or any promise thereof to any person acting as a procurement officer on behalf of the State, or who in any official capacity participates in the procurement of such supplies, services, construction, or insurance, whether it is given for their own use or for the use or benefit of any other person or organization (63-56-1002, <u>Utah Code Annotated</u>, 1953, as amended).
- 25. CONFLICT OF TERMS: Contractor Terms and Conditions that apply must be in writing and attached to the contract. No other Terms and Conditions will apply to this contract including terms listed or referenced on a Contractor's website, terms listed in a Contractor quotation/sales order, etc. In the event of any conflict in the contract terms and conditions, the order of precedence shall be:

 1. Atth. A: State of Utah Standard Terms and Conditions;

 2. State of Utah Contract Signature Page(s);

 3. State Additional Terms and Conditions;

 4. Contractor Terms and Conditions.
- 26. ENTIRE AGREEMENT: This Agreement, including all Attachments, and documents incorporated hereunder, and the related State Solicitation constitutes the entire agreement between the parties with respect to the subject matter, and supersedes any and all other prior and contemporaneous agreements and understandings between the parties, whether oral or written. The terms of this Agreement shall supersede any additional or conflicting terms or provisions that may be set forth or printed on the Contractor's work plans, cost estimate forms, receiving tickets, invoices, or any other related standard forms or documents of the Contractor that may subsequently be used to implement, record, or invoice services hereunder from time to time, even if such standard forms or documents have been signed or initialed by a representative of the State. The parties agree that the terms of this Agreement shall prevail in any dispute between the terms of this Agreement and the terms printed on any such standard forms or documents, and such standard forms or documents shall not be considered written amendments of this Agreement.

(Revision date: 2 Feb 2006

ATTACHMENT B

SCOPE OF WORK AND HOURLY RATES COMMUTERLINK SOFTWARE

(Revised 2/26/06)

This scope identifies software development and support tasks that will be used to assist the Department and its partner agencies, with the continued statewide expansion and oversight of the CommuterLink ITS program. TransCore ITS, LLC will provide personnel to design, develop, and integrate enhancements and new features within our TransSuite® software, which is currently the base application used in the UDOT CommuterLink system. Project activities shall consist of providing new TransSuite® software applications and upgrades to support the needs of the Department and its partner agencies (i.e., Regions, City's, and Emergency Dispatch Centers), with an emphasis on providing new tools to promote and facilitate greater efficiencies and interoperability for the public and transportation entities.

All work shall be authorized by the UDOT Project Manager prior to the start of any task within this contract. Tasks will be clearly identified and will include the development of concept, feasibility and requirement reports; detailed design documents, software coding, testing, implementation and formal acceptance; and system training and post deployment support. The level of effort to be provided at each phase will be commensurate with the task effort itself, but a typical deliverable will consist of a Concept of Operations or Requirements & Architect report followed by a Detail Design and then software development. A formal review process will be performed at the conclusion of each deliverable for approval to proceed to the next step. The Detail Design document will include an updated schedule, cost analysis and test plan, and will form the basis from which all new software development efforts will be performed.

Program development activities for this contract have been organized into the following categories with a more detailed discussion provided in the following sections:

- 1. Project Management
- 2. Enhancements
- 3. Integration and Support
- 4. Software Development

1. PROJECT MANAGEMENT

TransCore will provide software management and technical support to the Department. Coordination will be support primarily from the Salt Lake City office, local staff and Atlanta staff. Out of state coordination will be provided through the use of email / telephone communications, and via routine visits as required to support on-site installations and CCB meetings. On-site support staff shall assist with the development of the TransSuite® system and will serve as a company liaison with offsite development staff to support the software implementation; to document and repair software issues; and to conduct / document software user group sessions. Primary functions to be provided as part of this task will include:

Provide detailed financial accounting reports to define project status. As a
minimum, these reports shall be generated on a monthly basis, and shall
compare current expenditures against an estimated time and cost to
complete. Task budget deviations shall be identified for each of the
categories identified herein. A sample report shall be produced at the start of

the project for UDOT approval, with the initial cost to complete estimates identified by time period for each task.

- Task definition and resource allocation to complete tasks
- Coordinating task definition and assignments with the Change Control Board (CCB)
- Support requirements definition of tasks
- Monitoring and reporting of task progress
- Provide a monthly report of all task prioritizations and status to the CCB.
- Facilitate, organize and document various software user group sessions
- Maintain / administer CommuterLink software configuration management system
- Document / assist with software troubleshooting and repair

2. ENHANCEMENTS

TransCore will provide TransSuite® software enhancements, integration and/or preservation support as requested by the Department throughout the course of this contract to support new features and user requests. Activities to be performed shall be initiated at the direction of UDOT, and will primarily consist of activities resulting from requests submitted to the project manager from the software developers, system users or CCB members. Potential system enhancement categories that may be performed but not limited to, include the following:

- ETS / IMS Integration Application
- Digital Highway Advisory Radio (HAR)
- Central Ramp Metering (CRM)
- CAD Integration support
- CommuterLink Website
- NTCIP Standards & Device Drivers
- System Reports & Database configuration tools
- Ramp Metering Firmware
- Video Control System (VCS)
- Data sharing
- Weather
- Intra Net
- Signal Control System / TransSuite® Data Sharing Application

3. INTEGRATION AND SUPPORT

TransCore will work with the Department to assist with the integration of other ITS deployment projects into the TransSuite® software to provide a fully functional and operational system. Typical integration support efforts include, but are not limited to, the following:

- Device installation & configuration
- Troubleshooting support
- Firmware upgrades
- Development of new drivers
- Database modifications
- End to end testing

4. SOFTWARE DEVELOPMENT

TransCore will develop software applications throughout the course of this contract to improve the efficiencies and management capabilities of the CommuterLink system. Activities to be performed shall be initiated at the direction of UDOT, and will be performed in accordance with accepted systems engineering practices, including development of functional requirements, detailed designs, code generation, implementation and acceptance testing. Several new applications have been identified below for possible deployment, but this is only a partial goals list, with final implementations to be assigned by the Department based on factors including user prioritizations and funding availability.

4.1 SCENARIO MANAGER

Development of a complex management subsystem that will allow operators to associate ATMS devices and management modules to a specific event (i.e., construction work zone) to easily monitor and manage these devices in a coordinated fashion. Typical devices that might be linked together include permanent and portable signs, HAR's, CCTV, weather stations, detectors, license plate readers, etc.

4.2 STAGING AND REDUNDANCY

Development of remote server applications (i.e., communication servers) to improve system redundancy by distributing some of the TransSuite® processes such as signs, cameras, ramps, etc. to other locations. This work will enable standalone operations of a center (i.e., Region 3) with a C2C-like tie back to the TOC, or simply enable putting a communications server in a location other than the TOC, to accommodate communication limitations and/or to provide for system redundancy.

4.3 PERFORMANCE MEASURES AND ATIS APPLICATIONS

Development of performance measuring applications and reports to provide operators and engineering staff with easy to use tools that will allow for the establishment, monitoring and in some cases, posting to the website, of operational performance metrics. TransCore will work with the Department to help identify and design potential metrics to be tracked, and will then develop these applications as directed. Examples of Measures of Effectiveness (MOE's) that might be developed include:

- Reliability index or Total Traffic Index (TTI)
- System metric reporting (i.e. volume to service flows)
- Trip Planning Tools (travel times between two user defined locations)
- WebBlogs (news of the day)

4.4 GIS INTEGRATION WITH ATMS DEVICES

TransCore will develop and/or integrate with a GIS based tracking system to permit engineering, maintenance and operational units with the ability to easily locate, identify, monitor, update and otherwise modify ATMS device status and configuration conditions. These interactions shall be provided via a GIS graphical interface, to facilitate ease of use by making inquiries and updates as intuitive as possible. Examples might include the ability for maintenance technicians to:

- Locate and/or track a specific item (devices, fiber, conduit, infrastructure elements)
- · Report of item quantities
- ATMS device status (percent on line, failed, failure type, etc.)
- Maintenance reports (i.e., recommended schedules based on time or failure alarms)
- Notification applications (emails, pages, operator alarms, etc.) in response to triggers

4.5 TAG READER / AVL

TransCore will provide a feasibility study, and if applicable will then design, develop, test and integrate the TransSuite® applications to display and report vehicle locations for use as probe data. Types of devices that might be integrated include electronic Tag Readers to monitor commercial vehicles (e.g., airport taxis, limos, buses) that are already equipped with these tags.

Job responsibilities and Rates

Category Titles	Name	Rates*	Labor Description
Project Manager II	Grant, John	\$ 153.18	Oversees and monitors overall project management activities, serves as responsible manager to ensure customer needs are fully met. Analyzes client requirements and recommends strategies. Assists client in developing strategic plans and concepts. Possess a minimum of 10 years technical and project management experience in Intelligent Transportation Systems (ITS).
	sales Manager en	100000000000000000000000000000000000000	
Technical Manager	Patton, Keith M Amidon, John D Gross, Neil R	\$ 145.56	Software team leads responsible for managing and providing technical oversight to software development team. Provide quality control and quality assurance for all software deliverables including requirement documents, detailed designs, code development and assist with final implementation and integration. Possess a minimum of 15 years technical experience in Intelligent Transportation System (ITS) application development.
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Team Lead	Holt, Daniel E Torres, Anthony Shackelford, David	\$ 129.79	Senior computer programming responsible for managing a software development team. Responsible for detailed designs, code generation, configurations and integration support.
Network Engineer	Willey, Scot	\$ 118.62	Network engineer responsible for one or more technical areas in the computer networking arena (such as, but not limited to, network design, device configuration or system implementation and operations support).
Principal Engineer	Tinker, Jamie L Vesnic, Jasmin	\$ 112.67	Computer science specialists possessing 5 or more years of technical expertise in Intelligent Transportation System (ITS) applications, with specific focus and expertise in TransSuite application development.
Sonior Engineer	Knanka Jasanh A	\$ 102.67	Intelligent Transportation Systems (ITS) engineer or
Senior Engineer	Knapka, Joseph A	\$ 103.67	Intelligent Transportation Systems (TIS) engineer or software developer possessing a minimum of 5 years of ITS experience and expertise in the design, construction and deployment of field hardware or associated software application development. This position involves construction management, ITS hardware configuration and deployment, ITS related software application development and system integration.

GIS / Software Developer	Hutchings, Clinton Jones, Michelle R Gravitt, Eric C	\$ 79.55	Assist more experienced programmers in software coding and/or GIS application development. Focus is with Intelligent Transportation System (ITS) related applications. Assist in document preparation and logical flow charts. Populate GIS database and produce production quality maps and graphical displays. Test, debug applications. Possess a minimum of 3 years experience and work is generally limited in scope and reviewed by more experienced programmers or ITS engineers.
Engineer Technician	Cutler, Adam	\$ 63.85	Installation, configuration and maintenance of Intelligent Transportation System (ITS) related devices including but not limited to computers, network hardware, traffic management devices and communications equipment. Conducts tests in accordance with approved procedures for acceptance. Possess a minimum of 2 years electronic or other specialized technical trade certifications.
Clerical / Accounting	Spackman, Charlene	\$ 43.76	Directly supports the Project Manager by maintaining personnel and other files; prepares correspondence, schedules and coordinates travel. Assists in the preparation of presentation graphics, and supports the
			development of contract deliverables and reports by developing and updating graphic presentations to improve the quality and enhance the usability of these documents. Responsible for integrating the graphics generated with automated tools and the deliverable documents. Possess high school degree or equivalent.

^{*} Rates valid through 1/31/07

ATTACHMENT C

SPECIAL TERMS AND CONDITIONS

- 1. **Payment Schedule:** Payments to the Contractor shall be made monthly after the submission of a proper invoice.
- 2. **Contract:** This is a 3 year contract, with a possible renewal options of (2) one year options.
- 3. **Wages**: The Contractor shall be responsible for all applicable company wages in accordance with the Federal, State and local laws and ordinances.
- 4. **Invoicing:** The Contractor shall submit invoices for authorization to pay to:

Utah Department of Transportation Attention: TOC Rudy Zamora 2010 S. 2760 W. Salt Lake City, UT 84104

Payment of invoices will be sent via mail. The State reserves the right to correct invoices. Payment to the Contractor shall be as follows:

For Domestic Wires:

Wachovia Bank
1525 W. W.T. Harris Blvd
Charlotte NC 28262-8522
Acct # 2000028340177 Routing # 061000227
Beneficiary: TransCore Holdings, Inc., on behalf of TransCore ITS, LLC.

For Hard Copy Checks:

TransCore
PO Box 933493
Atlanta GA 31193-3493 (Please use 9 digit zip code)
Overnight Mail for checks:
Wachovia/TransCore
Attn: 933493

3585 Atlanta Ave; Hapeville GA 30354
*** Please do not use these addresses for anything but payments.

THE CONTRACT NUMBER SHALL APPEAR ON ALL INVOICES FOR PAYMENTS

- 5. **Progress Payments:** Progress payments will be made, with 5% of the invoiced amount retained as a performance guarantee when indicated, based upon the State financial cycle.
- 6. **FINAL PAYMENT:** Final payment, including any amounts retained, shall be made 60 days after final sign off for each task and deliverable, such as file translation, custom computer programming or project records, and system test materials and documentation have been received and accepted by the STATE Project Manager as accurate and complete.
- 7. **Non-Assignment**: The Contractor shall not sublet, assign or transfer any part of this contract without prior written approval from the Procurement Supervisor or the Procurement Manager of Utah Department of Transportation. The provision of monies due under this contract shall not be assignable without prior written approval from the Procurement Supervisor or the Procurement Manager of the Utah Department of Transportation.
- 8. **Complete Contract**: This contract is intended by the parties as a final expression of their agreement, and supersedes all prior communications, representations and agreement, oral and written, between the parties with respect to the subject matter contained herein. The parties also intend this contract to be a complete and exclusive statement of the terms of their agreement. This contract may not be modified or terminated orally, and no claimed modification, rescission or waiver shall be binding on

the STATE unless in writing, signed by a duly authorized representative of the STATE.

- Price Guarantees: The CONTRACTOR agrees the prices bid on services in this 9. contract shall be guaranteed through completion of the project.
- Notification: Notice given under this Contract shall be written, or sent by facsimile or 10. other electronic means. Written notice shall be sent by registered or certified mail, postage prepaid, return receipt requested, or by any other overnight delivery service which delivers to the noticed destination and provides proof of delivery to the sender. Facsimile or other electronic notice must be followed within 3 days by written notice. All notices shall be effective when first received at the following addresses:

If to CONTRACTOR:

Transcore ITS, LLC Attention: John Grant, Associate Vice President 488 E 6400 S, Suite 375 Murray, UT 84107 John.grant@transcore.com 801-293-1920 tel 801-293-1921 fax also copies to:

TransCore

858.736-8236 tel

Attention: Christine K. Faschini, Contracts Mgr 9440 Carroll Park Drive, Suite 150 San Diego, CA 92121 ckfaschini@transcore.com 858.736-8357 fax

If to STATE:

UDOT / Traffic Operation Management Attention: Rudy Zamora 2010 South 2760 West Salt Lake City, UT 84104 Rzamora@utah.gov Phone 801-887-3753

also copies to:

Utah Department of Transportation Attention: Denice McCarthy Box 148260 4501 South 2700 West Salt Lake City, UT 84114-8260 Dmccarthy@utah.gov Phone 801-965-4761

- Change in Personnel or Resources: No change in personnel or resources assigned to 11. this project will be permitted without prior written approval of STATE Project Manager.
- Responsibility for Wages: The CONTRACTOR is responsible for all applicable 12. company wages in accordance with the federal, state and local laws and ordinances.
- Employment of State Employees: The CONTRACTOR agrees to not engage in any 13. way the services on this contract of any present or former STATE employee who was involved as a decision maker in the selection or approval process or who negotiated and/or approved billings or contract modification for this contract.
- Non-Compete Agreements: The CONTRACTOR represents that its officers and 14. employees are free to contract with the STATE and are not subject to restrictions by the terms of their present or past employment including, but not limited to, an agreement not to compete for a period of time, unless disclosure has been made. CONTRACTOR must disclose to the STATE any possible conflicts, in writing, before the contract is signed, and the STATE will evaluate whether to continue with contract execution. The STATE may elect to terminate a contract immediately with CONTRACTOR who is subsequently determined to be subject to such restrictions, without liability to the STATE. If the STATE elects to terminate the contract for this reason, the STATE will supersede paragraph #12 in Attachment A - Standard Terms and Conditions, and will not provide 30 days prior notice to the CONTRACTOR.

- 15. Confidential Information: To the extent required under this contract the CONTRACTOR may be given access to confidential or proprietary business, technical, or financial information belonging to the STATE. The CONTRACTOR shall, after receipt thereof, treat such information as confidential. Both parties shall maintain, as confidential, and shall not disclose to any person outside its employ, nor use for purposes other than performance of this Contract, any specifications, drawings, blueprints, data, business information, or other confidential information which is learned by virtue of this Contract, except where required by law. CONTRACTOR agrees not to appropriate such information to their own use or disclose such information to other parties unless specifically authorized by the STATE in writing. The foregoing obligations, however, shall not apply to:
 - a) Information, which, at the time of receipt by the CONTRACTOR, is in public domain.
 - b) Information, which is published after receipt by the CONTRACTOR, or otherwise becomes part of the public domain through no fault of the CONTRACTOR.
 - c) Information which the CONTRACTOR can demonstrate was already in its possession at the time of receipt, and was not acquired directly or indirectly from the STATE.
 - Information which the CONTRACTOR can demonstrate was received from a third party who did not require the CONTRACTOR to hold such information in confidence.
- 16. Quality of Services: CONTRACTOR represents to STATE that it is experienced in and thoroughly familiar with all aspects of the services required hereunder and is properly qualified as applicable and is equipped, organized, and financially able to perform the services.
 - No changes in the services to be provided by CONTRACTOR under this Contract shall be made without STATE prior written approval.
- 17. **Project Reviews:** It is understood and agreed authorized representatives of STATE and, when federal Funds are used, the Federal Highway Administration, shall have the right to review and inspect the work in process, and the CONTRACTOR facilities, at any time during normal business hours or by appointment.
- 18. **Similar Products:** Should the STATE independently design, develop, or acquire ideas and concepts identical or similar to those provided by or contained in the CONTRACTOR product, CONTRACTOR agrees this Contract shall not prevent STATE from using such ideas or concepts to design, develop, or acquire hardware or software for its use, provided STATE does not copy the CONTRACTOR product.
- 19. **Facilities and Materials:** The CONTRACTOR and all personnel working under this contract shall not acquire, borrow, copy, or use in any manner software, documentation, or data on any STATE data processing facility for use other than as required to complete this contract.
- 20. **Suspension of Work:** Should the STATE desire to suspend the work, but not terminate the contract, this will be done by written confirmation. The work may be reinstated upon 2 weeks advance written notice from the STATE. The STATE understands any such suspension of the work may affect both the time of performance and price to complete the work when reinstated.
- 21. Assignment of Contract: The CONTRACTOR shall not sublet, assign or transfer any part of this contract without prior written approval from STATE. Neither shall the provision

arbitration rules of the American Arbitration Association, Utah Board. The Statutes of the State of Utah shall govern the arbitration proceeding and the proceeding shall be held in Salt Lake City, Utah. Anything to the contrary contained in the above mentioned rules and statutes notwithstanding, the parties consent that any papers, notices, or process necessary or proper for the institution or continuance of, or relating to any arbitration proceeding, or for the confirmation of an award and entry of judgment on any award made, including appeals in connection with any judgment or award, may be served on each of the parties by registered mail addressed to the party at the principal office of the party or by personal service on the party in or without the above mentioned state. The parties hereby recognize and consent to the above mentioned arbitration association's jurisdiction over each and every one of them.

- 27. Disputes: Any dispute arising under this Contract, which is not resolved, by the STATE and CONTRACTOR shall be decided by a court of law under the terms of Section 27. Forum for Enforcement. Pending settlement of the final decision by the court, CONTRACTOR shall proceed diligently with the performance of the Contract in accordance with STATE direction.
- 28. **Consequential Damages:** In no event shall either TransCore or the State of Utah be liable to the other for any special, indirect, incidental, consequential, or economic damages (including, but not limited to lost profits and lost business opportunity), regardless of the legal theory under which such damages are sought, and even if the parties have been advised of the possibility of such damages.
- 29. **Limitation of Liability:** TransCore's total liability to customer and all liabilities arising out of or related to this contract, from any cause or causes, and regardless of the legal theory, including breach of contract, warranty, negligence, strict liability, or statutory liability, shall not, in the aggregate, exceed the amounts paid to TransCore under the contract.

Any claim by customer against contractor relating to this contract, other than in warranty, must be made in writing and presented to contractor within one year after the earlier of: (1) the date on which the Customer accepts the deliverable at issue; or (2) the date on which TransCore completes performance of the services specified in this contract. Any claim under warranty must be made within the time specified in the applicable warranty clause.

- 30. Limitation on Dissemination of TransCore Commercial Work Product: TransCore and Customer expressly exclude any and all third parties from the benefits of this Agreement. In the event that the customer furnishes any TransCore work product to a person who is not a party to this Agreement, Customer agrees to defend, indemnify, and hold harmless TransCore from and against all claims, damages, losses, costs and expenses (including attorney's fees) of actions brought by third parties, and arising out of or relating to such third party's use or distribution of, or reliance upon, the Contractor's work product.
- 31. **Document Review and Approval:** Any drawing, report, manual or other data submitted for the Customer's review shall be approved or disapproved within fourteen (14) calendar days of receipt. If the item is disapproved then the Customer will provide detailed comments that define the nature and extent of the deficiency and the type of remedial action expected. If the Customer does not approve or disapprove within fourteen (14) calendar days or if the Customer's comments are not received within the fourteen (14) day period, then TransCore's schedule will be extended commensurately.

This agreement provides for submission of one (1) draft, for comments, and one (1) final submittal of the documents and manuals. If the Customer requires additional submittals,

equitable adjustments to the schedule and/or price will be handled through change orders to this Agreement.

Such approval as detailed above can encompass portions of a submittal and result in partial approvals to maintain program schedules.

- 32. **Risk of Loss:** The Customer shall bear all risk of loss for materials and equipment upon delivery to job site(s) of the Customer.
- 33. **Delays:** Should TransCore suffer delays due the Customer, other Contractors and/or utilities, or for other reasons beyond the control of TransCore, the Customer will adjust the project schedule accordingly.
- 34. **Site Access:** TransCore shall be required to provide 48-hours advance notice to the Utah Project Manager for access to the computer room during non-work hours. Site access shall be unhindered and available to TransCore in order to perform the required work without interruption in accordance with the contract schedule. TransCore's inability to gain access to site due to the Customer's actions or omissions or any circumstances beyond the direct control of TransCore including but not limited to delays, inconvenience, or damage sustained due to interference by utility appurtenances or the operation of moving the same shall be considered extra work and TransCore shall be entitled to an equitable adjustment in price and delivery schedule.
- 35. **Obsolescence:** TransCore's performance under this contact is based on utilization of equipment, materials, and software available at the time this contract was executed. If technological improvements, product discontinuations, or other vendor caused modifications occur to the equipment, materials, or software during or after the contract term, TransCore will provide the Authority with notification of the impact of such changes on this project in the form of an engineering change proposal addressing the impact. Any additional services required due to technological/obsolescence changes may require an equitable adjustment to the contract schedule, price, and/or contract provisions depending on the facts of the situation. All changes will be performed upon a mutually agreeable basis.
- 36. Software License: The following license is incorporated herein:

TransSuiteTM Standard Software Licensing Agreement for UDOT Proprietary Information ATTACHMENT D

THIS SOFTWARE LICENSE AGREEMENT (this "Agreement") is made as of the ______ day of ______, 2006, by and between TransCore, ITS, LLC (hereinafter "Licensor"), a Delaware Limited Liability Company, with principal offices at 8158 Adams Drive, Liberty Centre, Building 200, Hummelstown, PA 17036 and the UDOT Department of Transportation, (hereinafter "Licensee").

1. Definitions

1.1 "Computer Software" shall mean both source and object code and all data sets and auxiliary files used by such code, along with any media on which they reside and documentation related thereto, specific to TransSuite source code, together with the proprietary information and trade secrets contained therein. For purposes of this License Agreement, Computer Software includes the following TransCore products meeting the functionality standards as stated in CommuterLinkSM / TransSuiteTM Functional Specifications, July 22, 2004:

Pre-Existing:

Refers to existing TransCore software modules and any associated software module enhancements that are performed for UDOT in accordance with defined work products. Collectively these modules are referred to as TransSuite™, and for the purposes of this license agreement, consist of the following modules:

- 1.1.1 Traveler Information System (TIS) UDOT Phase 1, Rel. 1.3
- 1.1.2 ATMS Map & Explorer (ATMS) UDOT Phase 1, Rel. 1.3
- 1.1.3 Freeway Traffic Management (FTMS) UDOT Phase 3, Rel. 1.0
- 1.1.4 Incident Management System (IMS) UDOT Phase 1, Rel. 1.3

Developed:

- 1.1.5 Video Control System (VCS) UDOT Phase 4, Rel. 0
- 1.2 "Licensee Facilities" shall mean space, environment, and other facilities, which are to be provided by Licensee in connection with the installation, operation, or maintenance of the Computer Software.
- 1.3 "CommuterLink^{SM"}, Utah's Intelligent Transportation System (ITS), is a network of resources designed to maximize the efficiency of transportation in Utah by providing transportation information to the public. The core of CommuterLink is a computer-controlled system, housed at the Traffic Operations Center (TOC) in Salt Lake City and tied into city, county and transit control centers. CommuterLink is a cooperative effort among many organizations, currently including UDOT, Salt Lake City, Salt Lake County, the Federal Highway Administration, the Federal Transit Administration, the Utah Transit Authority, Wasatch Front Regional Council, Mountainland Association of Governments and the Department of Public Safety. For purposes of this TransSuite TM License Agreement, future CommuterLink Partners are included herein.
- 1.4 "CommuterLink Partners" shall mean any governmental entity in the State of Utah or private entity that has entered into a formal agreement with UDOT to operate, monitor or control CommuterLink ATMS devices, and who agree in writing to abide by the terms and conditions of this Software License Agreement.
- 1.5 "Future Releases" During the term of the Contract Agreement, TransCore shall provide future releases to UDOT for CommuterLink/TransSuite modules, if and only if, such releases do not detrimentally affect existing functionality and require no additional effort in the part of TransCore to ensure compatibility with existing functionality. Unless otherwise included within the Contract Agreement scope of services, UDOT shall be responsible for the installation/implementation of the Future Releases in the CommuterLink system.

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1.6	"Contract Agreement" :	shall mean Contract No.	
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2. License

- 2.1 Licensor grants to the Licensee, its successors and assigns, a limited, non-exclusive, royalty-free, fully paid, license to the Pre-Existing Computer Software for Licensee's own operations for the CommuterLink service. Licensor authorizes the Licensee to copy or modify the Pre-Existing Computer Software in accordance with the terms of this License Agreement. The Licensee shall not re-sell, supply or give the Pre-Existing Computer Software to other parties, except as provided in 3.5 herein.
- 2.2 Licensor grants to the Licensee CommuterLink Partners, both current and future, a limited, nonexclusive, royalty-free, fully paid, license to the Pre-Existing Computer Software for the sole and exclusive use of their CommuterLink operations. Licensor does not grant to current and future CommuterLink Partners the right to copy or modify the Pre-Existing Computer Software.
- 2.3 This License is granted for the Pre-existing Software defined in Section 1.1.
- 2.4 The Developed Software (VCS) is jointly owned by TransCore ITS, Inc. and UDOT. UDOT ownership rights are strictly limited to use and licensing within CommuterLink. TransCore ownership and licensing rights for the VCS software are unrestricted. TransCore grants to CommuterLink Partners, both current and future, a limited, non-exclusive, royalty-free, fully paid, license to the Developed Computer Software (VCS) for their CommuterLink operations.

3. Specific Rights

- 3.1 The Pre-Existing Computer Software and any copies, in whole or in part made pursuant to this Agreement shall be the sole and exclusive property of TransCore, however Licensor grants licensee rights to use and modify this Pre-Existing Computer Software for as long as this licensing agreement remains in force.
- 3.2 Licensee shall not sell, lease, assign, sublicense, or otherwise transfer to any third party, directly or indirectly, the Software or any license or right granted hereunder, in whole or in part, except as provided herein to authorized CommuterLink Partners and as provided in Section 3.5.
- 3.3 Licensee shall not export or re-export outside the United States, the Software, in whole or in part.
- 3.4 Licensee shall reproduce and include copyright and proprietary notices on all copies of the Pre-Existing and Developed Computer Software in the same form and manner that such copyright and proprietary notices are included on the Pre-Existing and Developed Computer Software by Licensor.
- 3.5 Licensee may adapt or modify the Pre-Existing and Developed Computer Software and/or subcontract to a third party to modify this Software, provided the covenants set forth herein are adhered to, as further detailed in Section 4 and Section 5.

4. Non-Disclosure

4.1 Licensee acknowledges that the Pre-Existing Computer Software constitutes a valuable asset of TransCore and is to be considered proprietary information of TransCore, and that, by virtue of this Agreement, Licensee shall acquire only the right to use and modify the Pre-Existing Computer Software under the terms and conditions hereof and shall not acquire any rights of ownership in or title to the Pre-Existing Computer Software.

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- 4.2 Licensee warrants that all persons who it has authorized to use the Software will observe and perform the covenants set forth in this Article 4. Licensee agrees to maintain the Pre-Existing and Developed Computer Software in secure premises to prevent any unauthorized person from gaining access thereto and to give TransCore written notice of any unauthorized disclosures or use of the Pre-Existing and Developed Computer Software as soon as Licensee becomes aware of it.
- 4.3 Licensee shall notify and inform its employees and any third parties having access to the Pre-Existing and Developed Computer Software of Licensee's limitations, duties and obligations regarding non-disclosure and copying of the Pre-Existing and Developed Computer Software. The Pre-Existing and Developed Computer Software shall be used only by employees of the Licensee and any third parties who are necessary to Licensee's exercise of its rights hereunder. Except in emergency situations, any agent or third party that the Licensee assigns to work with the source code for the Pre-Existing and Developed Computer Software will execute a non-disclosure agreement in a form acceptable to Licensor (see attached) before beginning the assignment. Licensee shall take reasonable security measures to protect the Pre-Existing and Developed Computer Software from being accessed by unauthorized third parties.
- 4.4 Licensee acknowledges that unauthorized disclosure of the Pre-Existing and Developed Computer Software will diminish substantially the value of the Pre-Existing and Developed Computer Software. If Licensee violates the provisions of this Agreement, TransCore shall be entitled to obtain equitable relief to protect its interest herein, including, but not limited to, injunctive relief, as well as monetary damages.
- 4.5 Notwithstanding any termination provisions of the governing Contract Agreement, the obligations set forth in this Article 4 shall survive the termination of the Contract Agreement.

5. Warranty

- 5.1 TransCore warrants for a period of one (1) year after initial system acceptance that the Pre-Existing and Developed Computer Software will operate according to CommuterLink/TransSuite Functional Specifications, July 22, 2004. If it is determined that the Pre-Existing and Developed Computer Software does not operate according to such specifications, TransCore's only responsibility will be to apply reasonable efforts to cure the non-conformance. TransCore does not warrant or guarantee that all software errors will be corrected. After the expiration of the one (1) year period, and if requested by Licensee, TransCore may, if it desires, provide maintenance services for the Pre-Existing and Developed Computer Software at TransCore's established prices.
- 5.2 Any changes, modifications, maintenance, or repairs not performed by TransCore to the Pre-Existing and Developed Computer Software that result in TransSuite system problems, shall automatically void any warranties herein. Any changes, modifications, maintenance, or repairs to the operating environment to which TransSuite has been installed and that result in TransSuite system problems, shall automatically void any warranties, except that the warranty shall be reinstated once Licensee shows Licensor that the system problems have been fixed. The suspension and reinstatement of the warranty shall not be cause for the warranty period to be extended beyond the one-year time frame. If TransCore has notified Licensee that certain software programs, systems hardware, or workstations cause TransSuite system problems, the warranty shall be automatically voided if Licensee installs them.
- 5.3 TRANSCORE DISCLAIMS ALL WARRANTIES ON THE SOFTWARE FURNISHED HEREUNDER, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR SUITABILITY. "Except as Provided in this Agreement" THERE SHALL BE NO

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LIABILITY ON THE PART OF TRANSCORE FOR DAMAGES INCLUDING BUT NOT LIMITED TO SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE USE OR PERFORMANCE OF THE SOFTWARE EVEN IF TRANSCORE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND LICENSEE AGREES TO INDEMNIFY AND HOLD TRANSCORE HARMLESS FROM ANY THIRD PARTY CLAIMS.

6. Termination

- 6.1 This Agreement and the License to use the Pre-Existing and Developed Computer Software shall terminate when Licensee discontinues the use of the Pre-Existing and Developed Software on the CommuterLink System. TransCore may also terminate this Agreement if Licensee or a CommuterLink Partner violates any term or condition of this Agreement and Licensee fails to take reasonable steps to remedy the violation and avoid a reoccurrence. These steps may include, but are not limited to, termination of a contract, the initiation of judicial action to recover wrongfully-disclosed software, or the exercise of any other contractual remedies that Licensee may have with the Partner. Within 30 days of receiving notice from TransCore that this paragraph is being invoked, Licensee shall notify TransCore of the steps it is taking to remedy the violation and prevent a reoccurrence.
- 6.2 Within 30 days after any termination of this Agreement, the Licensee shall send to TransCore a written notification that it has discontinued use of the Pre-Existing Software.

7. Miscellaneous

- 7.1 This Agreement shall be binding upon the successors and assigns of both parties; provided, however, that no assignment shall be made by either party without the prior consent of the other. Any attempt by either party to assign this Agreement or any of the rights or duties hereunder contrary to the foregoing provision shall be void.
- 7.2 Any notice permitted or required under this Agreement shall be deemed given when mailed by certified mail, postage prepaid, or when dispatched by facsimile (and followed by a written confirmation mailed by certified mail, postage prepaid, within 72 hours after such dispatch). Mail shall be addressed as follows:

TransCore ITS, LLC

Christine K. Faschini, CPA, CPCM Contracts Manager 9440arroll Park Drive, Suite 150 San Diego, CA 92121 858.736-8236 tel 858.736-8357 fax ckfaschini@transcore.com

Utah Department of Transportation

Attn: Denice McCarthy,
Purchasing Agent
Box 148260
4501 South 2700 West
Salt Lake City, Utah 84114-8260
801.965.4761
801.965.4073 fax

TransSuiteTM Standard Software Licensing Agreement for UDOT **Proprietary Information** ATTACHMENT D

- 7.3 No modification or amendment to this Agreement will be valid or binding unless reduced to writing and duly executed by the party or parties to be bound thereby.
- 7.4 If any one or more of the provisions of this Agreement should be ruled wholly or partly invalid or unenforceable by a court or other government body of competent jurisdiction, then the validity and enforceability of all provisions of this Agreement not ruled to be invalid or unenforceable will be unaffected.
- 7.5 This Agreement will be interpreted and construed in accordance with the laws of the State of Delaware, without regard to its conflicts of law principles.
- 7.6 This Agreement may be signed in two counterparts, each of which shall be deemed an original and which together shall constitute one instrument.
- 7.7 The Contract 069162, and this License Agreement shall be interpreted in harmony with each other and together constitute the complete and exclusive agreement between the parties. Upon the expiration or termination of Contract 069162, this Agreement shall remain in effect as provided for herein. No modification of this Agreement shall be effective unless in writing and signed by the parties.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as indicated below, by their respective representatives, each thereunto duly authorized.

TRANSCORE ITS, Inc. ("Licensor")				
Ву:				
Name:	Michael R. Mauritz			
Title:	Vice President			
Date:	/2006			
	epartment of Transportation ("Licensee")			
Ву:				
Name:				
Title:				
Date:	//2006			